THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9465 of 2007

Dated: 04-06-2007

Between:

Smt. Velagapudi Siva Naga Mani.

..... PETITIONER

AND

The Revenue Divisional Officer, Krishna District, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9465 of 2007

ORDER:

The petitioner is statedly Sarpanch of Akunuru Gram Panchayat of Vuyyuru Mandal, Krishna District. According to her the Village has provided separate burial grounds for Hindus and Christians. However, fourth respondent buried her husband (who died on 04.01.2007) in land admeasuring Ac.0.04 situated in R.S.No.183/2 in spite of objections from the owners of dwelling houses in the surrounding area. These persons made a complaint to the petitioner on 10.01.2007 making copies thereof to the Sub Collector, Krishna District, the Commissioner of Police, Vijayawada and first respondent herein, in vain. Therefore, the petitioner filed instant writ petition seeking a direction to respondents 1 and 2 to initiate enquiry against fourth respondent and to remove dead body from the land.

After hearing the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue (General-A), this Court is convinced that the writ petition as laid cannot be accepted. Under Section 297 of the Indian Penal Code, 1860 (IPC) removal of a dead body or resorting to such acts demeaning the dead or insulting the dead are offence. Therefore, unless and until the competent authority orders exhumation of the dead body and burial of the same in the licenced burial ground, the respondents cannot be resorted to such action. The learned counsel for the petitioner, however, submits that under Section 133 of the Code of Criminal Procedure, 1973, the jurisdictional Executive Magistrate is competent to obstruct nuisance in a public place. According to the learned counsel, burial of the dead body in an unlicenced premises or in the area where residential houses are situated amounts to public nuisance. This Court is not readily willing to countenance the submission as it is a matter of enquiry by the competent Executive Magistrate. It is no doubt true that the Law does not contemplate or permit burial of dead body in a place which is not licenced or in a place where residential premises are situated. If necessary, the petitioner may file an appropriate application before the competent Executive Magistrate/Mandal Revenue Officer.

The writ petition, with the above observations, is accordingly dismissed. No costs.

_____

(**V.V.S.RAO, J**)

04th June, 2007
ghn